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California Fine Wine & Spirits LLC

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

14 **FOR THE COUNTY OF SACRAMENTO**

15 CARLA BLACKSHEAR, an individual, on  
16 behalf of herself and on behalf of all persons  
similarly situated,

17 Plaintiff,

18 vs.

19 CALIFORNIA FINE WINE & SPIRITS LLC,  
20 a Limited Liability Company; and DOES 1  
through 100, inclusive,

21 Defendant.

Case No.: 34-2018-00245842

CLASS LAWSUIT

**JOINT STIPULATION OF CLASS ACTION  
AND PAGA SETTLEMENT**

22  
23 Subject to the Court's approval, the Parties have entered into an Agreement pursuant to the  
24 terms and conditions in this Joint Stipulation of Class Lawsuit and PAGA Settlement Agreement  
25 ("Agreement") between Plaintiff Carla Blackshear ("Plaintiff"), individually and on behalf of the  
26 Settlement Class, and Defendant California Fine Wine & Spirits LLC ("Defendant"). The Parties  
27 request the Court to enter judgment subject to the Agreement's terms.

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**I. DEFINITIONS**

1. “Action” or “Lawsuit” is the Second Amended Complaint (“**SAC**”) entitled *Carla Blackshear v. California Fine Wine & Spirits LLC*, filed on January 7, 2020, in the Sacramento County Superior Court, and assigned Case No. 34-2018-00245842.

2. “Class Counsel” means the attorneys of record for the Class Representatives and Class Members, *i.e.*, Norman B. Blumenthal, Kyle R. Nordrehaug, and Aparajit Bhowmik, 2255 Calle Clara, La Jolla, CA 92037.

3. “Class Counsel Award” means an award of attorneys’ fees, expenses and costs granted to Class Counsel and paid from the Maximum Settlement.

4. “Class Data” means information regarding Class Members that Defendant will collect from its electronic records and provide to the Settlement Administrator. It shall be formatted as a Microsoft Excel spreadsheet and shall include for each Class Member their full name, last known address, last known telephone number, and Social Security number; as well as information sufficient to allow the Settlement Administrator to calculate the number of “Workweeks” for all Class Members during the Class Period.

5. “Class Members” (“**CM**”) means all individuals who are or previously were employed by Defendant in California, and classified as a non-exempt employee at any time during the Class Period (as defined herein).

6. “Class Period” shall mean the time period from December 5, 2014 through the date of the Court’s order approving Plaintiff’s Motion for Preliminary Approval, or February 15, 2020, whichever date occurs first.

7. “Class Representative Service Award” or (“**CRSA**”) means the amount that the Court authorizes to be paid to Plaintiff from the Maximum Settlement Amount, in addition to Plaintiff’s Individual Settlement Payments.

8. “Class Representative” means the named Plaintiff in this lawsuit, Carla Blackshear.

9. “Court” means the Superior Court for the State of California, County of Sacramento.

10. “Defendant” means California Fine Wine & Spirits LLC

1           11.     “Defense Counsel” or “Counsel for Defendant” shall mean Michael J. Nader of  
2 Ogletree, Deakins, Nash, Smoak & Stewart, P.C., 500 Capitol Mall, Suite 2500, Sacramento, CA  
3 95814.

4           12.     “Effective Date” shall be the later of the following: (a) If no objections to the  
5 settlement are pending, then the date the Court enters judgment granting Final Approval; (b) If an  
6 objection to the settlement is filed, then the date when the time expires to file an appeal of the  
7 Court’s grant of Final Approval of settlement; or (c) if an objection is filed, as well as a timely  
8 Notice of Appeal of the Court’s grant of Final Approval of settlement, then the date the appeal is  
9 finally resolved, with the final approval unaffected.

10          13.     “Final Approval Order” means the Court’s order granting final approval of the  
11 Settlement.

12          14.     “Individual Settlement Payment” (“**ISP**”) means the amount payable from the Net  
13 Settlement Amount to each Settlement Class Member.

14          15.     “Maximum Settlement Amount” or (“**MSA**”) means the maximum sum to be paid  
15 by Defendant pursuant to this Settlement, which is two million one-hundred thousand dollars  
16 (\$2,100,000.00). The MSA shall include all payments contemplated by this Settlement  
17 Agreement, including but not limited to all ISPs, the CRSA, the Class Counsel Award, the PAGA  
18 Payment, the Settlement Administration Costs, and any award of costs or reimbursements to Class  
19 Counsel or Plaintiff. In addition to the MSA, Defendant will also be responsible for any required  
20 employer payroll taxes and other required employer withholdings on the portion of the ISPs  
21 allocated to wages under this Agreement, including Defendant’s FICA and FUTA contributions.

22          16.     “Net Settlement Amount” or (“**NSA**”) means the MSA less the CRSA, the Class  
23 Counsel Award, the PAGA Payment, the Settlement Administration Costs, and any award of costs  
24 or reimbursements to Class Counsel or Plaintiff.

25          17.     “Notice Packet” means the Notice of Class Action and PAGA Settlement in a form  
26 substantially similar to the form attached as **Exhibit 1** (the “Notice”); a Change of Address Form  
27 in a form substantially similar to the form attached as **Exhibit 2**; and a pre-printed and post-paid  
28 return envelope.

- 1           18.    “PAGA” means the California Labor Code Private Attorneys General Act of 2004.
- 2           19.    “PAGA Payment” means the payment made to the California Labor and Workforce
- 3 Development Agency pursuant to PAGA. The PAGA Payment shall be made from the MSA.
- 4           20.    “Parties” mean Plaintiff and Defendant, collectively, and “Party” shall mean either
- 5 Plaintiff or Defendant, individually.
- 6           21.    “Payment Ratio” means the respective Qualified Workweeks for each Settlement
- 7 Class Member divided by the total Qualified Workweeks for all Class Members.
- 8           22.    “Plaintiff” shall mean the named Plaintiff in this Lawsuit, Carla Blackshear.
- 9           23.    “Preliminary Approval Date” means the date the Court enters an order granting
- 10 preliminary approval of the Settlement Agreement.
- 11           24.    “Preliminary Approval Order” means the Order Granting Preliminary Approval,
- 12 substantially in the form attached hereto as **Exhibit 3**.
- 13           25.    “Qualified Settlement Fund” means the fund set up by the Settlement Administrator
- 14 into which the NSA shall be deposited and disbursements from it shall be made.
- 15           26.    “Qualified Workweeks” means the number of Workweeks (as defined herein) for
- 16 each putative Class Member within the Class Period.
- 17           27.    “Released Claims” by Settlement Class Members means all causes of action that
- 18 were alleged or reasonably could have been alleged in the SAC based on the facts, legal theories,
- 19 or causes of action contained therein, including all of the following claims for relief: (i) any and all
- 20 claims for alleged unpaid wages including, but not limited to, claims for minimum wage,
- 21 overtime, double-time, seventh day pay, the failure to pay for all hours worked, and the failure to
- 22 pay for all hours worked at correct rates; (ii) any and all claims for meal period violations
- 23 including, but not limited to, claims for late, short, interrupted and/or missed meal periods and/or
- 24 the failure to pay premium wages therefor; (iii) any and all claims for rest break violations
- 25 including but not limited to, claims for late, short, interrupted and/or missed rest breaks and/or the
- 26 failure to pay premium wages therefor; (iv) any and all claims for improper or inaccurate itemized
- 27 wage statements including, but not limited to, claims for injuries suffered therefrom; (v) any and
- 28 all claims for statutory penalties premised on the facts, claims, or legal theories described above or

1 in the SAC, or that reasonably could have been raised in the SAC based on the facts, legal  
2 theories, and causes of action alleged in the SAC, including waiting time penalties under Labor  
3 Code Section 203 and/or wage statement penalties under Labor Code Section 226(e); (vi) any and  
4 all civil penalties under the Labor Code Private Attorneys General Act of 2004, Labor Code  
5 Section 2698 et seq. (“PAGA”) premised on the facts, claims, or legal theories described above or  
6 in the SAC; (vii) any and all claims under the Business & Professions Code (including Section  
7 17200 et seq.) premised on the facts, claims, or legal theories described above or in the SAC, or  
8 that reasonably could have been raised in the SAC based on the facts, legal theories, and causes of  
9 action alleged in the SAC, and other equitable relief, liquidated damages, punitive damages, or  
10 penalties arising from the foregoing alleged claims; and any other benefit claimed on account of  
11 the allegations asserted in the SAC (collectively, the “Released Claims”). The Released Claims  
12 shall expressly exclude claims for wrongful termination, unemployment insurance, disability,  
13 social security, workers’ compensation, and claims outside of the Class Period. The period of the  
14 Released Claims shall extend to the limits of the Class Period. The res judicata effect of the  
15 Judgment will be the same as that of the Released Claims.

16 a. Plaintiff and the Settlement Class Members may hereafter discover facts or legal  
17 arguments in addition to or different from those they now know or currently believe to be  
18 true with respect to the claims, causes of action and legal theories of recovery in this case  
19 which are the subject matter of the Released Claims. Regardless, the discovery of new  
20 facts or legal arguments shall in no way limit the scope or definition of the Released  
21 Claims, and by virtue of this Agreement, Plaintiff and the Settlement Class Members shall  
22 be deemed to have, and by operation of the final judgment approved by the Court, shall  
23 have, fully, finally, and forever settled and released all of the Released Claims as defined  
24 in this Agreement.

25 b. Each and every ISP check will include an endorsement confirming that by cashing  
26 the check, the SCMs are releasing the Released Claims.

27 28. “Released Parties” shall mean Defendant California Fine Wine & Spirits LLC and  
28 all of its past, present and/or future, direct and/or indirect, subsidiaries, affiliates, parents,

1 divisions, joint venturers, predecessors, successors, insurers, assigns, consultants, subcontractors,  
2 Defendant's employee benefit plans and the trustees, fiduciaries, and administrators of those plans,  
3 and any of its current or former employees, officers, directors, servants, agents, investors,  
4 representatives, attorneys, executors, administrators, and assigns, and all persons acting under, by,  
5 through, or in concert with any of them, and each of them.

6 29. "Request for Exclusion" refers to a formal request to be excluded from the  
7 Settlement Agreement as described in the "Requests for Exclusion" section herein.

8 30. "Response Deadline" means the date forty-five (45) days after the Settlement  
9 Administrator mails Notices to Class Members, and the last date on which Class Members may  
10 submit requests for exclusion or objections to the Settlement Agreement.

11 31. "Settlement Agreement" means this Joint Stipulation of Class Action and PAGA  
12 Settlement Agreement.

13 32. "Settlement Administrator" means ILYM Group, as approved by the Court.

14 33. "Settlement Class Members" ("**SCM**") means all SCMs who do not submit a  
15 request for exclusion. SCMs will release all of the Released Claims and be bound by all terms of  
16 the Settlement Agreement and any final judgment entered in this Lawsuit.

17 34. "Workweek" means the seven consecutive days starting on and including Monday  
18 through and including Sunday (a "week") during which time the Class Data reflects that a given  
19 putative Class Member was on duty with Defendant during the Class Period at any point in time  
20 for any amount of time during a given week, and does not include weeks when a putative Class  
21 Member was on PTO, a leave of absence, jury duty, or the like for an entire week.

## 22 II. RECITALS

23 35. Class Certification. The Parties stipulate and agree to certification of a "Settlement  
24 Class" for the purposes of this Settlement Agreement only. Should the Settlement Agreement not  
25 obtain Court approval and become final and effective, class certification shall immediately be set  
26 aside and the Settlement Class immediately decertified. The Parties' stipulation to class  
27 certification as part of the Settlement Agreement shall not be considered in connection with the  
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1 issue of whether a class should be certified in this Lawsuit or any other lawsuit, and shall not be  
2 admissible in any such proceeding other than in the context of this Settlement Agreement.

3       36.     Procedural History. On December 5, 2018, Plaintiff filed a putative class action  
4 Complaint asserting claims against the Defendant, including claims for failure to pay overtime  
5 wages; failure to provide compliant meal and rest breaks and related premium payments; failure to  
6 provide compliant wage statements; failure to pay final wages; and unfair business practices in  
7 violation of California Business and Professions Code § 17200 *et seq.* On February 13, 2019,  
8 Plaintiff filed a first amended complaint alleging the same claims in the original Complaint, and  
9 adding claims for civil penalties under the California Labor Code Private Attorneys General Act of  
10 2004, Labor Code §§ 2698 *et seq.*, that reasonably could have been premised on the facts, claims,  
11 and legal theories alleged in the Complaint and in the FAC. On January 7, 2020, Plaintiff, by  
12 stipulation of the parties, filed a second amended complaint (“SAC”) alleging the same claims in  
13 the original Complaint and in the FAC, and adding new off the clock claims alleging unpaid time  
14 worked raised by Plaintiff at the Parties’ private mediation identified in paragraph 39, below.

15       37.     Mediation. On October 9, 2019, the Parties participated in a private mediation with  
16 Lou Marlin, a mediator with considerable experience mediating wage and hour class actions. This  
17 took place only after the Parties exchanged extensive informal information, documents, and data.  
18 The mediation resulted in this Settlement Agreement to resolve this Lawsuit in its entirety.

19       38.     Benefits of Settlement Agreement to Settlement Class Members. Plaintiff and  
20 Class Counsel recognize the expense and length of continued proceedings necessary to litigate  
21 their disputes through trial and potential appeals. Plaintiff has also taken into account the  
22 uncertainty and risk of the outcome of further litigation, and the difficulties and delays inherent in  
23 such litigation. Plaintiff and Class Counsel are also aware of the burdens of proof necessary to  
24 establish liability for the claims asserted in the Lawsuit, both generally and in response to  
25 Defendant’s defenses, and the difficulties in establishing damages for the Class Members. Thus,  
26 Plaintiff and Class Counsel have determined that the terms set forth in this Settlement Agreement  
27 are fair, adequate and reasonable, and in the best interests of the SCMs.

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1           39.     Defendant's Reasons for Settlement Agreement. Defendant has concluded that  
2 further defense of this litigation would be protracted and expensive for all Parties. Substantial  
3 amounts of Defendant's time and resources have been and, unless this Settlement Agreement is  
4 made, will continue to be devoted to the defense of the claims asserted by Plaintiff and the  
5 putative Class Members. Defendant has also taken into account the risks of further litigation in  
6 reaching its decision to enter into this Settlement Agreement. Although Defendant continues to  
7 contend that it is not liable for any of Plaintiff's claims, Defendant has agreed to settle along the  
8 terms set forth in this Settlement Agreement and fully resolve the Lawsuit.

9           40.     Class Members' Claims. The Class Representative claims that her allegations have  
10 merit in regards to the putative Class Members. This Settlement Agreement is a compromise of  
11 disputed claims. The monies paid in this Settlement Agreement are genuinely disputed and the  
12 Parties agree that the provisions of Labor Code section 206.5 do not apply to this Settlement  
13 Agreement. Nothing in this Settlement Agreement or its exhibits, and no action taken to carry out  
14 this Settlement Agreement may be construed or used as an admission by or against the putative  
15 Class Members or Class Counsel as to the merits of the claims asserted.

16           41.     Defendant's Defenses. Defendant claims that the Released Claims have no merit.  
17 This Settlement Agreement is a compromise of disputed claims. The Settlement funds are  
18 genuinely disputed and the Parties agree that the provisions of Labor Code section 206.5 do not  
19 apply to this Settlement Agreement. Nothing in this Settlement Agreement or its exhibits, and no  
20 action taken to carry out this Settlement Agreement may be construed or used as an admission by  
21 or against Defendant as to the merits of the claims asserted.

### 22                           **III.     TERMS OF SETTLEMENT AGREEMENT**

23           42.     Settlement Agreement Consideration by Defendant. Defendant shall pay the MSA  
24 and nothing more than the MSA, with the exception that Defendant will be responsible for any  
25 required employer payroll taxes and other required employer withholdings on the portion of the  
26 ISPs allocated to wages under this Agreement, including Defendant's FICA and FUTA  
27 contributions.  
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1           43.     General Release of Claims By Plaintiff. As of the Effective Date, in exchange for  
2 the consideration in this Settlement Agreement, Plaintiff, for herself and her heirs, successors and  
3 assigns, hereby waives, releases, acquits and forever discharges the Released Parties from any and  
4 all Released Claims as well as any and all claims, actions, charges, complaints, grievances and  
5 causes of action, of whatever nature, whether known or unknown, which exist or may exist on  
6 Plaintiff' behalf as of the date she signs this Settlement Agreement, including but not limited to,  
7 any and all tort claims, contract claims, wage claims, wrongful termination claims, disability  
8 claims, benefit claims, public policy claims, retaliation claims, statutory claims, personal injury  
9 claims, emotional distress claims, invasion of privacy claims, defamation claims, fraud claims,  
10 quantum meruit claims, and any and all claims arising under any federal, state or other  
11 governmental statute, law, regulation or ordinance, including, but not limited to, claims for  
12 violation of the Fair Labor Standards Act, the California Labor Code, the Wage Orders of  
13 California's Industrial Welfare Commission, other state wage and hour laws, the Americans with  
14 Disabilities Act, the Employee Retirement Income Security Act, Title VII of the Civil Rights Act  
15 of 1964, the California Fair Employment and Housing Act, the California Family Rights Act, the  
16 Family Medical Leave Act, California's Whistleblower Protection Act, California Business &  
17 Professions Code Section 17200 et seq., and any and all claims arising under any federal, state or  
18 other governmental statute, law, regulation or ordinance. Plaintiff expressly waives and  
19 relinquishes any and all claims, rights or benefits she may have under California Civil Code §  
20 1542, which provides as follows: A general release does not extend to claims which the creditor  
21 does not know or suspect to exist in his or her favor at the time of executing the release which if  
22 known by him or her must have materially affected his or her Settlement Agreement with the  
23 debtor. Plaintiff may hereafter discover claims or facts in addition to, or different from, those  
24 which she now knows or believes to exist, but she expressly agrees to fully, finally and forever  
25 settle and release any and all claims against the Released Parties, known or unknown, suspected or  
26 unsuspected, which exist or may exist at the time she signed this Settlement Agreement, including,  
27 but not limited to, any and all claims relating to or arising from Plaintiff' employment with  
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1 Defendant. The Parties further acknowledge, understand and agree that this Settlement Agreement  
2 would not have been finalized without this representation and commitment from Plaintiff.

3 44. Conditions Precedent: This Settlement Agreement will become final and effective  
4 only upon the occurrence of all of the following events:

5 a. The Court enters an order granting preliminary approval of the Settlement  
6 Agreement;

7 b. The Court enters an order granting final approval of the Settlement Agreement and  
8 a Final Judgment;

9 c. The Final Effective Date occurs; and

10 d. Defendant does not invoke its right to revoke the Settlement Agreement as  
11 described herein (“Option to Revoke or Modify Settlement Agreement”).

12 45. Nullification of Settlement Agreement. In the event that this Settlement Agreement  
13 is not finally approved by the Court, fails to become effective, or is reversed, withdrawn or  
14 modified by the Court, or in any way prevents or prohibits Defendant from obtaining a complete  
15 resolution of the claims as described herein:

16 a. This Settlement Agreement shall be void ab initio and of no force or effect, and  
17 shall not be admissible in any judicial, administrative or arbitral proceeding for any  
18 purpose or with respect to any issue, substantive or procedural;

19 b. The conditional class certification (obtained for any purpose) shall be void ab initio  
20 and of no force or effect, and shall not be admissible in any judicial, administrative or  
21 arbitral proceeding for any purpose or with respect to any issue, substantive or procedural;  
22 and

23 c. None of the Parties to this Settlement Agreement will be deemed to have waived  
24 any claims, objections, defenses or arguments in the Lawsuit, including with respect to the  
25 issue of class certification.

26 46. Certification of the Settlement Class. The Parties stipulate to conditional class  
27 certification of the Settlement Class for the Class Period for purposes of the Settlement Agreement  
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1 only, and to agree that Plaintiff Carla Blackshear shall be appointed as Class Representative, and  
2 that Norman B. Blumenthal shall be appointed Class Counsel.

3 47. Tax Liability. The Parties make no representations as to the tax treatment or legal  
4 effect of the payments called for hereunder, and SCMs are not relying on any statement or  
5 representation by the Parties in this regard. SCMs understand and agree that they will be  
6 responsible for the payment of any taxes and penalties assessed on the ISPs they receive, and that  
7 they will be solely responsible for any penalties or other obligations resulting from their personal  
8 tax reporting of their ISPs.

9 48. Circular 230 Disclaimer. Each Party to this Settlement Agreement acknowledges  
10 and agrees that no provision of this Settlement Agreement, and no written communication or  
11 disclosure between the Parties or their attorneys, was intended to be relied upon as tax advice  
12 within the meaning of United States Treasury Department circular 230 (31 CFR part 10, as  
13 amended); and that each Party has relied exclusively on their own, independent legal and tax  
14 counsel for advice (including tax advice) in connection with this Settlement Agreement; and that  
15 each Party is not entitled to rely upon any communication or disclosure by any attorney or advisor  
16 to avoid any tax penalty.

17 49. Preliminary Approval Motion. At the earliest practicable time, Plaintiff shall file  
18 with the Court a Motion for Order Granting Preliminary Approval and supporting papers, which  
19 shall include this Settlement Agreement. Plaintiff shall provide a courtesy draft of these papers to  
20 Defense Counsel at least seven (7) business days before filing the documents.

21 50. Settlement Administrator. By accepting the role as Settlement Administrator, the  
22 Settlement Administrator is bound to all of the terms, conditions and obligations described in this  
23 Settlement Agreement. Among these obligations, the Settlement Administrator shall have sole  
24 and exclusive responsibility for:

- 25 a. calculating the Qualified Workweeks, Payment Ratio, and the ISP for each
- 26 Settlement Class Member;
- 27 b. processing and mailing payments to the Class Representative, Class
- 28 Counsel, LWDA, and SCMs;

- 1 c. printing and mailing the Notices to the Class Members as directed by the  
2 Court;
- 3 d. receiving and reporting objections, opt outs, Requests for Exclusion, and  
4 Notices of Objection;
- 5 e. deducting all legally required taxes from the ISPs and distributing tax  
6 forms;
- 7 f. processing and mailing any tax payments to the appropriate state and  
8 federal taxing authorities;
- 9 g. providing declaration(s) as necessary in support of preliminary and/or final  
10 approval of this Settlement Agreement;
- 11 h. and other tasks that the Parties mutually agree on, or the Court orders the  
12 Settlement Administrator to perform. The Settlement Administrator shall keep the  
13 Parties timely apprised of the performance of its duties. Defendant and Defense  
14 Counsel shall have no responsibility for validating or ensuring the accuracy of the  
15 Settlement Administrator's work. Plaintiff, Class Counsel, Defendant and Defense  
16 Counsel shall not bear any responsibility for errors or omissions in the calculation  
17 or distribution of the ISPs or any other distribution of monies contemplated by this  
18 Settlement Agreement.

19 51. Notice Procedure.

- 20 a. Class Data. The Class Data shall be confidential. The Settlement  
21 Administrator shall not provide the Class Data to Class Counsel or Plaintiff or any  
22 third party, or use the Class Data or any of its information for any purpose other  
23 than to administer this Settlement Agreement. Defendant shall provide the  
24 Settlement Administrator with the Class Data to prepare and mail the Notices to the  
25 SCMs. This shall take place within fourteen (14) calendar days after the date that  
26 both of the following has occurred: (a) the Preliminary Approval Date; and (b) the  
27 date on which Defendant receives sufficient and reasonable written assurances from  
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1 the Settlement Administrator that the Administrator will maintain the  
2 confidentiality of the Class Data.

3 b. Notices.

4 i. The Notice of Class Action and PAGA Settlement Agreement  
5 mailed out to Class Members (the “Notice”) shall be in a form  
6 substantially similar to the form attached as Exhibit 1. The Notice  
7 shall inform Class Members to notify the Settlement Administrator  
8 of their current mailing address where the ISP should be mailed  
9 following the Effective Date. The Notice shall include the release to  
10 be given by each SCM in exchange for the ISP.

11 ii. The Notice shall also provide each SCM’s starting and ending dates  
12 of employment in a class position during the Settlement Class  
13 Period, the number of Qualified Workweeks calculated by the  
14 Settlement Administrator, and the Settlement Administrator’s  
15 calculation of each SCM’s estimated ISP.

16 iii. The Notice’s mailing envelope shall include the following language:  
17 “IMPORTANT LEGAL DOCUMENT- YOU MAY GET MONEY  
18 FROM A CLASS ACTION SETTLEMENT AGREEMENT; A  
19 PROMPT REPLY IS REQUIRED TO PRESERVE YOUR  
20 RIGHTS.”

21 c. Notice By First Class U.S. Mail. No later than fourteen (14) calendar days after  
22 receiving the Class Data from Defendant as provided herein, the Settlement Administrator  
23 shall mail copies of the Notice to all Class Members via regular First Class U.S. Mail. The  
24 Settlement Administrator shall exercise its best judgment to determine the current mailing  
25 address for each Class Member.

26 d. Undeliverable Notices. Any Notices returned to the Settlement Administrator as  
27 non-delivered on or before the Response Deadline shall be re-mailed to the forwarding  
28 address affixed thereto. If no forwarding address is provided, the Settlement Administrator

1 shall promptly attempt to determine a correct address by lawful use of skip-tracing, or  
2 other search using the name, address, email address, social media, and/or Social Security  
3 number of the Class Member involved, and shall then perform a re-mailing, if another  
4 mailing address is identified by the Settlement Administrator. If any Notices sent to SCMs  
5 currently employed by Defendant are returned to the Settlement Administrator as non-  
6 delivered and no forwarding address is provided, the Settlement Administrator shall notify  
7 Defendant. Defendant will request that the currently employed SCM provide a corrected  
8 address to the Defendant to forward to the Settlement Administrator. Class Members who  
9 received a re-mailed Notice shall have their Response Deadline extended fifteen calendar  
10 (15) days from the original Response Deadline.

11 e. Disputes Regarding ISPs. SCMs will have the opportunity, should they disagree  
12 with the estimated number of Qualified Workweeks stated on their Notice, to provide  
13 documentation and/or an explanation to show contrary employment dates. If there is a  
14 dispute, the Settlement Administrator will consult with the Parties to determine whether an  
15 adjustment is warranted. The Settlement Administrator shall determine the eligibility for,  
16 and the amounts of, any ISP under the terms of this Settlement Agreement, and that  
17 determination shall be binding upon the SCM and the Parties.

18 f. Disputes Regarding Administration of Settlement Agreement. Any disputes not  
19 resolved by the Settlement Administrator concerning the administration of the Settlement  
20 Agreement will be resolved by the Court under the laws of the State of California. Prior to  
21 any such involvement of the Court, counsel for the Parties will confer in good faith to  
22 resolve the disputes without the necessity of involving the Court.

23 g. Requests for Exclusion.

24 i. The Notice shall include an explanation that Class Members who wish to  
25 exclude themselves from the Settlement Agreement must submit a written  
26 Request for Exclusion by the Response Deadline. The written Request for  
27 Exclusion must state that the Class Member has decided to exclude himself  
28 or herself from the Settlement Agreement and (1) must contain the name,

1 address, and the last four digits of the Social Security number and/or  
2 Employee ID number of the person requesting exclusion; (2) must be signed  
3 by the Class Member; (3) must be postmarked by the Response Deadline  
4 and returned to the Settlement Administrator at the specified address; and  
5 (4) contain a typewritten or handwritten notice stating in substance: “I wish  
6 to opt out of the Settlement Agreement of the class action lawsuit entitled  
7 *Blackshear v. California Fine Wine & Spirits LLC*, Case No. 34-2018-  
8 00245842, filed in the Superior Court of California, County of Sacramento.  
9 I understand that by requesting to be excluded from the Settlement  
10 Agreement, I will receive no money from the Settlement Agreement  
11 described in this Notice.”

12 ii. The Request for Exclusion will not be valid if it is not timely submitted, or  
13 if it is not signed by the Class Member, or if it does not contain the name  
14 and address of the Class Member. The date of the postmark on the return  
15 mailing envelope for the Request for Exclusion shall be the exclusive means  
16 used to determine whether the Request for Exclusion was timely submitted.  
17 Class Members who fail to submit a valid and timely written Request for  
18 Exclusion on or before the Response Deadline shall be Settlement Class  
19 Members (“SCMs”) who are bound by all terms of the Settlement  
20 Agreement, and any final judgment entered in this Lawsuit, if the  
21 Settlement Agreement is approved by the Court.

22 iii. Any Class Member who requests to be excluded from the Settlement  
23 Agreement will not be entitled to any recovery under the Settlement  
24 Agreement and will not be bound by its terms or have any right to object,  
25 appeal or comment on it. Nothing in this Settlement Agreement can be  
26 construed as a waiver of any defense that Defendant or the Released Parties  
27 have or could assert against anyone who timely serves a Request for  
28 Exclusion.

1 iv. No later than five (5) calendar days after the Response Deadline, the  
2 Settlement Administrator shall provide counsel for the Parties with a final  
3 list of the Class Members who have timely submitted written Requests for  
4 Exclusion.

5 v. At no time shall any of the Parties or their counsel seek to solicit or  
6 otherwise encourage Class Members to submit Requests for Exclusion from  
7 the Settlement Agreement.

8 h. Objections.

9 i. The Notice shall state that SCMs who wish to object to the Settlement  
10 Agreement must mail to the Settlement Administrator a written statement of  
11 objection (“Notice of Objection”) by the Response Deadline. The postmark  
12 date of the mailing shall be deemed the exclusive means for determining  
13 that a Notice of Objection was served timely.

14 ii. SCMs who submit a timely Notice of Objection will have a right to appear  
15 at the Final Approval/Settlement Agreement Fairness Hearing in order to  
16 have their objections heard by the Court. The Notice of Objection must be  
17 signed by the SCM and state the case name and number, the name and  
18 address of the SCM, the last four digits of the SCM’s Social Security  
19 number and/or Employee ID number, the basis for the objection, and if the  
20 SCM intends to appear at the Final Approval/Settlement Agreement  
21 Fairness Hearing. SCMs who fail to make objections in the manner  
22 specified above shall be deemed to have waived any objections and shall be  
23 foreclosed from making any objections (whether by appeal or otherwise) to  
24 the Settlement Agreement.

25 iii. At no time shall any of the Parties or their counsel seek to solicit or  
26 otherwise encourage SCMs to object to the Settlement Agreement or appeal  
27 from the Order and Final Judgment.

28



- 1           iv.       Class Members who submit a written Request for Exclusion are not entitled  
2                   to object to the Settlement Agreement.
- 3           v.        The Settlement Administrator shall send all objections to Class Counsel and  
4                   Defense Counsel. Class Counsel will be responsible for filing the Notices  
5                   of Objection with the Court in advance of the Final Approval Hearing.  
6                   Plaintiff and/or Defendant may file oppositions to Notices of Objection no  
7                   later than nine (9) court days prior to the date of the Final  
8                   Approval/Settlement Agreement Fairness Hearing.
- 9           vi.       Defendant shall not be responsible for the fees, costs, or expenses incurred  
10                   by Plaintiff, Class Counsel, or SCMs arising from or related to any  
11                   objection to the Settlement Agreement or related to any appeals thereof.

12       52.     Funding and Allocation of the Maximum Settlement Amount. Upon satisfaction of  
13 the preconditions described in this Settlement Agreement, and pursuant to the timeline and  
14 instructions below, Defendant will deposit the MSA into a Qualified Settlement Fund to be  
15 established by the Settlement Administrator.

- 16       a.     Funding Due Date. No later than ten (10) calendar days after the Effective Date,  
17 Defendant shall provide the MSA to the Settlement Administrator to fund the Settlement  
18 Agreement.
- 19       b.     Individual Settlement Payments. ISPs shall be paid from the NSA and shall be paid  
20 pursuant to the following formula:
- 21           i.     Calculation of Individual Settlement Payments (“ISPs”). Using the Class  
22 Data, the Settlement Administrator will calculate the total Qualified  
23 Workweeks for all SCMs. The respective Qualified Workweeks for each  
24 SCM will be divided by the total Qualified Workweeks for all SCMs,  
25 resulting in the Payment Ratio for each individual SCM. Each SCM’s  
26 Payment Ratio will then be multiplied by the NSA to calculate each SCM’s  
27 estimated ISP. The ISP will be provided only to the individual SCM. Each  
28 ISP will be reduced by any legally mandated employee tax withholdings

1 (e.g., employee payroll taxes, etc.). The ISP checks will include an  
2 endorsement confirming that by cashing the check, each SCM is releasing  
3 state and federal claims covered by the Released Claims.

4 ii. Tax Allocation. For tax purposes, each ISP shall be allocated as follows:  
5 10% as wages subject to IRS Form W-2 reporting and applicable  
6 taxes/withholdings, and 90% as statutory and civil damages and penalties  
7 for which an IRS Form 1099 will be issued.

8 iii. Mailing. ISPs shall be mailed by regular, First Class, U.S. Mail to each  
9 SCM no later than twenty-five (25) calendar days after the Effective Date.

10 iv. Uncashed Checks. Any checks issued to SCMs shall remain valid and  
11 negotiable for one hundred and eighty (180) days after the date they are  
12 issued. The Settlement Administrator will mail a reminder notice to those  
13 SCMs who have not cashed their checks after one hundred twenty (120)  
14 days and will also send a reminder via any available email address or social  
15 media for these SCMs. In the event an ISP check has not been cashed  
16 within one hundred and eighty (180) days, then the unpaid residue shall be  
17 tendered to the Controller of the State of California to be held pursuant to  
18 the Unclaimed Property Law, California Civil Code Section 1500, et seq,  
19 for the benefit of the SCMs who did not cash their checks until such time as  
20 they claim their property. The Settlement Administrator shall prepare a  
21 report regarding the extent of unclaimed funds, and the report shall be  
22 presented to the Court by Class Counsel.

23 c. Class Representative Service Award (“CRSA”).

24 i. Defendant agrees not to oppose or object to a Class Representative Service  
25 Award (“CRSA”) of up to ten thousand dollars (\$10,000) to Plaintiff in  
26 exchange for her General Release of claims, including the Released Claims,  
27 and for her time, effort and risk in bringing and prosecuting this matter.  
28 The CRSA shall be in addition to the Plaintiff’ ISP as an SCM.

- 1           ii.       The Settlement Administrator shall pay the CRSA to Plaintiff from the  
2                           MSA no later than twenty-five (25) calendar days after the Effective Date.  
3                           Any portion of the requested CRSA that is not awarded to the Class  
4                           Representative shall become part of the NSA.
- 5           iii.       The Settlement Administrator shall issue an IRS Form 1099 - MISC to  
6                           Plaintiff for the CRSA. Plaintiff shall be solely and legally responsible to  
7                           pay any and all applicable taxes on the CRSA and shall hold harmless  
8                           Defendant and the Released Parties from any claim or liability for taxes,  
9                           penalties, or interest arising as a result of the CRSA.
- 10          iv.       If the Court reduces or does not approve the requested CRSA, Plaintiff shall  
11                           not have the right to revoke the Settlement Agreement, which shall remain  
12                           binding.
- 13          d.       Class Counsel Award.
- 14                  i.       In consideration for settling the Lawsuit and for all Released Claims to the  
15                           Released Parties, as well as the General Release of claims by Plaintiff,  
16                           Class Counsel intends to apply for an award of attorneys' fees not to exceed  
17                           seven hundred thousand dollars (\$700,000.00), plus costs and expenses  
18                           supported by declaratration not to exceed fifteen thousand dollars  
19                           (\$15,000.00). These amounts will be issued out of the MSA.
- 20                  ii.       Class Counsel, Plaintiff and the SCMs will not apply to the Court for any  
21                           additional payment of attorney fees and costs, or for an increase in the  
22                           MSA. The Parties agree that, over and above the Court-approved Class  
23                           Counsel Award, each of the Parties, including all SCMs, shall bear their  
24                           own fees and costs, including, but not limited to, those related to the  
25                           investigation, filing, or prosecution of the Lawsuit; the negotiation,  
26                           execution, or implementation of this Settlement Agreement; and/or the  
27                           process of obtaining, administering, or challenging an Order Granting  
28                           Preliminary Approval and/or Final Approval.

- 1           iii.       Any portion of the requested Class Counsel Award that is not awarded to  
2                    Class Counsel shall be part of the NSA and shall be distributed to SCMs as  
3                    provided in this Settlement Agreement.
- 4           iv.       The Settlement Administrator shall pay the Class Counsel Award to Class  
5                    Counsel from the MSA no later than twenty-five (25) calendar days after  
6                    the Effective Date.
- 7           v.       Class Counsel shall be solely and legally responsible to pay all applicable  
8                    taxes on the Class Counsel Award. The Settlement Administrator shall  
9                    issue an IRS Form 1099 - MISC to Class Counsel for the payment.
- 10          vi.       In the event that the Court reduces or does not approve the requested Class  
11                    Counsel Award, Plaintiff and Class Counsel shall not have the right to  
12                    modify or revoke the Settlement Agreement, or to appeal such an order, and  
13                    the Settlement Agreement will remain binding.

14          e.       PAGA Payment. Twenty-eight thousand dollars (\$28,000.00) shall be allocated  
15                    from the MSA for the release of claims for civil penalties under the Private Attorneys  
16                    General Act of 2004. The Settlement Administrator shall pay seventy-five percent (75%)  
17                    of the \$28,000 payment, or \$21,000, to the California Labor and Workforce Development  
18                    Agency (the “PAGA Payment”) no later than twenty-five (25) calendar days after the  
19                    Effective Date. Twenty-five (25%) of the remaining amount of the \$100,000 payment, or  
20                    \$7,000, will remain in the NSA and distributed as described in this Settlement Agreement.  
21                    Class Counsel will take all action required by California Labor Code section 2699(1).

22          f.       Settlement Administrator Costs. The Settlement Administrator shall be paid for the  
23                    costs of administration of the Settlement Agreement from the MSA. Based upon estimates  
24                    received, the Settlement Administrator Costs shall not exceed thirty thousand dollars  
25                    (\$30,000) . The Settlement Administrator shall be paid the Settlement Administrator Costs  
26                    no later than fourteen (14) calendar days after Defendant provides funds to the Settlement  
27                    Administrator for disbursement under this Settlement Agreement.

1           53.     Mutual Full Cooperation. The Parties agree to fully cooperate with each other to  
2 accomplish the terms of this Settlement Agreement, including but not limited to, the execution of  
3 necessary documents and to take such other action as may be reasonably necessary to implement  
4 the terms of this Settlement Agreement. As soon as practicable after execution of this Settlement  
5 Agreement, Class Counsel shall, with the assistance and cooperation of Defendant and Defense  
6 Counsel, take all necessary steps to secure the Court’s Preliminary and Final Approval of this  
7 Settlement Agreement. The Parties also agree to cooperate in the Settlement Administrator  
8 process. The Parties each represent they do not have any financial interest in the Settlement  
9 Administrator or otherwise have a relationship with the Settlement Administrator that could create  
10 a conflict of interest. Class Counsel will also notify Defense Counsel if subpoenaed or upon  
11 receipt of any other request for documents or information regarding any other lawsuit filed, or  
12 potential lawsuit, against the Released Parties that covers or includes any SCMs and the Released  
13 Claims.

14           54.     Preliminary Approval Hearing. Plaintiff shall obtain a hearing before the Court to  
15 request the preliminary approval of the Settlement Agreement, and the setting of a date for a Final  
16 Approval/Settlement Agreement Fairness Hearing. The Preliminary Approval Order shall provide  
17 for the Notice of Class Action and PAGA Settlement (the “Notice”) to be sent to all Class  
18 Members as specified herein. In conjunction with the Preliminary Approval Hearing, Plaintiff  
19 shall submit this Settlement Agreement and the proposed Notice. Plaintiff shall provide drafts of  
20 all papers filed in support of preliminary approval to Defense Counsel at least seven (7) business  
21 days before filing the documents.

22           55.     Final Approval Motion. At the earliest practicable time following the expiration of  
23 the Response Deadline, Plaintiff shall file with the Court a Motion for Order Granting Final  
24 Approval and Entering Judgment, requesting final approval of the Settlement Agreement and a  
25 determination of the amounts payable for the CRSA, the Class Counsel Award, the PAGA  
26 Payment, and the Settlement Administration Costs. Plaintiff shall provide drafts of these papers to  
27 Defense Counsel at least seven (7) business days before filing the documents.

28

1 a. Declaration by Settlement Administrator. The Settlement Administrator shall  
2 submit a declaration in support of Plaintiff’s motion for final approval of this Settlement  
3 Agreement detailing the number of Notices mailed and re-mailed to Class Members, the  
4 number of undeliverable Notices, the number of timely requests for exclusion, the number  
5 of Notices of Objections received, the amount of the average ISP, the Settlement  
6 Administration Costs, and any other information as the Parties mutually agree on, or that  
7 the Court orders the Settlement Administrator to provide.

8 b. Final Approval Order and Judgment. The Parties shall present an Order Granting  
9 Final Approval of Class Action and PAGA Settlement Agreement to the Court for its  
10 approval, and Judgment thereon consistent with the terms and conditions of this Settlement  
11 Agreement.

12 56. Option to Revoke or Modify Settlement Agreement.

13 a. Defendant has the unilateral right to revoke the Settlement Agreement if, after the  
14 Response Deadline, the number of Class Members who submitted timely and valid written  
15 requests for exclusion from the Settlement Agreement equals five percent (5%) or more of  
16 all Class Members. If Defendant exercises the option to terminate this Settlement  
17 Agreement, Defendant shall provide written notice to Class Counsel within seven (7)  
18 calendar days after Defendant receives notice of the percentage of timely and valid written  
19 requests for exclusion from the Settlement Agreement. In such case, the Parties shall  
20 proceed in all respects as if this Settlement Agreement had not been executed.

21 b. The MSA will increase only if the data shows that the number of Workweeks (as  
22 defined herein) that was calculated from December 5, 2014 to May 1, 2019 (the  
23 “Calculation Period”) exceeds 100,058 Workweeks (the “Total Workweeks”) by 5% or  
24 more (the “Threshold”). Any increase in the MSA will be proportional based on the  
25 number of Workweeks in the Calculation Period that exceed the Threshold. For example, if  
26 at the time of Preliminary Approval, the actual number of Workweeks in the Calculation  
27 Period ends up being 10% greater than the Total Workweeks in the Calculation Period,  
28 then the MSA will increase by 5%.

1           57.     Review of Motions for Preliminary and Final Approval. Class Counsel will  
2 provide an opportunity for Defense Counsel to review the Motions for Preliminary and Final  
3 Approval prior to filing with the Court. The Parties and their counsel will cooperate and use their  
4 best efforts to effect the Court’s approval of the Motions for Preliminary and Final Approval of  
5 the Settlement Agreement, and entry of Judgment.

6           58.     Interim Stay of Proceedings. The Parties agree to stay all proceedings in the  
7 Lawsuit, except such proceedings necessary to implement and complete the Settlement  
8 Agreement, pending the Final Approval/Settlement Agreement Fairness Hearing to be conducted  
9 by the Court, and that the time within which to bring this action to trial under California Code of  
10 Civil Procedure Section 583.310 shall be extended from the date the Memorandum of Agreement  
11 was signed on October 21, 2019, until the settlement is revoked and the stay is lifted.

12           59.     Nullification of Settlement Agreement. In the event that the Court does not grant  
13 final approval, or the Court does not enter a final judgment as provided herein, or the Settlement  
14 Agreement does not become final for any other reason, this Settlement Agreement shall be null  
15 and void and any order or judgment entered by the Court in furtherance of this Settlement  
16 Agreement shall be treated as void from the beginning. In such a case, the entire MSA money  
17 shall be returned to the Defendant; the Parties shall proceed in all respects as if this Settlement  
18 Agreement had not been executed, except that any costs already incurred by the Settlement  
19 Administrator shall be paid by equal apportionment among the Parties; and this Agreement and its  
20 terms, and the communications, negotiations, and settlement discussions related the Lawsuit, shall  
21 be inadmissible and treated as confidential to the fullest extent allowed by law. In the event an  
22 appeal is filed from the Court’s final judgment, or any other appellate review is sought,  
23 administration of the Settlement Agreement shall be stayed pending final resolution of the appeal  
24 or other appellate review, but any fees incurred by the Settlement Administrator prior to being  
25 notified of the filing of an appeal from the Court’s Final Judgment, or any other appellate review,  
26 shall be paid to the Settlement Administrator within thirty (30) days of said notification.

27           60.     No Effect on Employee Benefits. Amounts paid to Plaintiff or other SCMs  
28 pursuant to this Settlement Agreement shall not be deemed pensionable earnings or have any

1 effect on the eligibility for, or calculation of, any employee benefits (e.g., vacations, holiday pay,  
2 retirement plans, etc.) of the Plaintiff or SCMs.

3         61.     Exhibits and Headings. The terms of this Settlement Agreement include the terms  
4 set forth in the attached Exhibits. The descriptive headings of any paragraphs or sections of this  
5 Settlement Agreement are inserted for ease of reference only and do not constitute a part of this  
6 Settlement Agreement.

7         62.     Amendment or Modification. With Court approval, this Settlement Agreement  
8 may be amended or modified only by a written instrument that is signed by counsel for all Parties  
9 or their successors-in-interest, and signed by the Parties or their successors-in-interest.

10        63.     Entire Settlement Agreement. This Settlement Agreement and its exhibits  
11 constitute the entire Settlement Agreement among the Parties, and no oral or written  
12 representations, warranties or inducements have been made to any Party concerning this  
13 Settlement Agreement or its exhibits other than the representations, warranties and covenants  
14 contained and memorialized in the Settlement Agreement and its exhibits.

15        64.     Authorization to Enter into Settlement Agreement. Counsel for all Parties warrant  
16 and represent they are expressly authorized by the Parties whom they represent to negotiate this  
17 Settlement Agreement and to take all appropriate actions needed by this Settlement Agreement to  
18 effectuate its terms. The person signing this Settlement Agreement on behalf of Defendant  
19 represents and warrants that they are authorized to sign this Settlement Agreement on behalf of  
20 Defendant. Plaintiff represents that she is authorized to sign this Settlement Agreement and that  
21 she has not assigned, transferred, or encumbered any claim, or part of a claim, demand, cause of  
22 action or any rights herein released and discharged or covered by this Settlement Agreement to  
23 any third-party.

24        65.     Binding on Successors and Assigns. The provisions of this Settlement Agreement  
25 shall run in perpetuity. This Settlement Agreement shall be binding upon, and inure to the benefit  
26 of, the successors or assigns of the Parties.

27  
28



1           66.     California Law Governs. All terms of this Settlement Agreement and its exhibits,  
2 and any disputes arising hereunder shall be governed by and interpreted according to the laws of  
3 the State of California.

4           67.     Counterparts. This Settlement Agreement may be executed in one or more  
5 counterparts. All executed counterparts and each of them shall be deemed to be one and the same  
6 instrument provided that counsel for the Parties to this Settlement Agreement shall exchange  
7 among themselves copies or originals of the signed counterparts.

8           68.     This Settlement Agreement Is Fair, Adequate and Reasonable. The Parties believe  
9 that this Settlement Agreement is a fair, adequate and reasonable Settlement Agreement of this  
10 Lawsuit and have arrived at this Settlement Agreement after extensive arm's-length negotiations,  
11 taking into account all relevant factors, present and potential. The Parties further agree that this  
12 Settlement Agreement shall not be construed in favor of or against any party by reason of the  
13 extent to which any party or their counsel participated in the drafting of this Settlement  
14 Agreement.

15           69.     Jurisdiction of the Court. The Parties agree that, pursuant to California Code of  
16 Civil Procedure Section 664.6, the Court shall retain jurisdiction with respect to the interpretation,  
17 implementation and enforcement of the terms of this Settlement Agreement and all orders and  
18 judgments entered in connection to it, and the Parties and their counsel submit to the jurisdiction  
19 of the Court for purposes of interpreting, implementing and enforcing the Settlement Agreement  
20 and all orders and judgments entered in connection to it.

21           70.     Publicity. Plaintiff and Class Counsel agree not to disclose or publicize the  
22 Settlement Agreement, including the fact of the Settlement Agreement, its terms or contents, and  
23 the negotiations underlying the Settlement Agreement, in any manner or form, directly or  
24 indirectly, to any person or entity, except for the Notice to Class Members to effectuate the terms  
25 of the Settlement Agreement. This section means that Plaintiff and Class Counsel agree not to  
26 issue press releases, communicate with or respond to any media or publication entities, publish  
27 information in any manner or form, whether printed or electronic, on any medium, or otherwise  
28 communicate, whether by print, video, website, recording or any other medium, with any person

1 or entity concerning the Settlement Agreement, including the fact of the Settlement Agreement, its  
2 terms or contents and the negotiations underlying the Settlement Agreement, except as shall be  
3 contractually required to effectuate the terms of the Settlement Agreement. However, for the  
4 limited purpose of allowing Class Counsel to prove adequacy as class counsel in other lawsuits,  
5 Class Counsel may disclose the name of the Parties in this Lawsuit, the venue/case number of this  
6 Lawsuit, and the fact that this Lawsuit settled on a class-wide basis (but not any other Settlement  
7 Agreement details) for such purposes.

8 71. No Unalleged Claims. Plaintiff and Class Counsel represent that they, as of the  
9 date of execution of this Settlement Agreement, have no intention of pursuing any claims against  
10 Defendant in any judicial, administrative, or arbitral forum, including, but not limited to, any and  
11 all claims relating to or arising from Plaintiff's employment with Defendant, and that Plaintiff's  
12 Counsel is not currently aware of any facts or legal theories upon which any claims or causes of  
13 action could be brought against Defendant, other than those facts or legal theories alleged in the  
14 SAC in this Lawsuit. Plaintiff and Plaintiff's Counsel further represent and agree that they do not  
15 currently know of or represent any persons who have expressed any interest in pursuing litigation  
16 or seeking any recovery against Defendant. The Parties agree that this Settlement Agreement  
17 would not have been finalized without this representation. Nothing in this Paragraph will be  
18 construed as a restraint on the right of any counsel to practice.

19 72. Waiver of Certain Appeals. The Parties agree to waive all appeals from the Court's  
20 final approval of the Settlement Agreement, unless the Court modifies the Settlement Agreement.

21 73. No Admissions by the Parties. Plaintiff alleges that the Released Claims have  
22 merit, while Defendant contends that they lack merit. This Settlement Agreement is a compromise  
23 of disputed claims. Nothing contained in this Settlement Agreement, no documents referred to  
24 herein, and no action taken to carry out this Settlement Agreement may be construed or used as an  
25 admission by or against the Defendant or Plaintiff as to the merits or lack thereof of the claims  
26 asserted.

1           74.    Notice of Settlement Agreement to LWDA. Plaintiff represents that Plaintiff will  
2 provide notice of this Settlement Agreement to the Labor Workforce Development Agency  
3 (“LWDA”) as required by Labor Code Section 2699(1)(2).

4           75.    IN WITNESS WHEREOF, this Joint Stipulation of Class Action and PAGA  
5 Settlement Agreement and Release of Claims is voluntarily executed by the Parties and their  
6 attorneys as of the dates noted.

7  
8 **IT IS SO AGREED:**

9  
10 Dated: Feb 23, 2020

*Carla Blackshear*

Carla Blackshear (Feb 23, 2020)

Carla Blackshear  
Plaintiff

11  
12  
13 Dated: 2/24/20



Norman B. Blumenthal  
Authorized to sign for Plaintiff  
BLUMENTHAL NORDREHAUG  
BHOWMIK DE BLOUW LLP  
*Attorneys for Plaintiff*  
*Approved as to form only*

14  
15  
16  
17  
18  
19 Dated: \_\_\_\_\_

California Fine Wine & Spirits LLC  
By its sole manager, RSSI Management, Inc.,  
By its sole officer, Thomas Haubenstricker

20  
21  
22  
23 Dated: \_\_\_\_\_

Michael J. Nader  
OGLETREE, DEAKINS, NASH,  
SMOAK & STEWART  
*Attorney for Defendant*  
*California Fine Wine & Spirits*  
*Approved as to form only*

1           74.    Notice of Settlement Agreement to LWDA. Plaintiff represents that Plaintiff will  
2 provide notice of this Settlement Agreement to the Labor Workforce Development Agency  
3 (“LWDA”) as required by Labor Code Section 2699(1)(2).


4           75.    IN WITNESS WHEREOF, this Joint Stipulation of Class Action and PAGA  
5 Settlement Agreement and Release of Claims is voluntarily executed by the Parties and their  
6 attorneys as of the dates noted.

7  
8 **IT IS SO AGREED:**

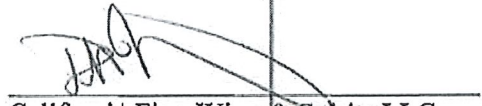
9  
10 Dated: Feb 23, 2020

*Carla Blackshear*  
\_\_\_\_\_  
Carla Blackshear (Feb 23, 2020)  
Carla Blackshear  
Plaintiff


11  
12  
13 Dated: 2/24/20

  
\_\_\_\_\_  
Norman B. Blumenthal  
Authorized to sign for Plaintiff  
BLUMENTHAL NORDREHAUG  
BHOWMIK DE BLOUW LLP  
*Attorneys for Plaintiff*  
*Approved as to form only*

14  
15  
16  
17  
18 Dated: 3/3/20

  
\_\_\_\_\_  
California Fine Wine & Spirits LLC  
By its sole manager, RSSI Management, Inc.,  
By its sole officer, Thomas Haubenstricker

19  
20  
21  
22 Dated: 3/6/20

  
\_\_\_\_\_  
Michael J. Nader  
OGLETREE, DEAKINS, NASH,  
SMOAK & STEWART  
*Attorney for Defendant*  
*California Fine Wine & Spirits*  
*Approved as to form only*

23  
24  
25  
26  
27  
28

**EXHIBIT #1**

**NOTICE OF CLASS ACTION SETTLEMENT**

To: **All persons employed by California Fine Wine & Spirits, LLC as a non-exempt employee in the State of California at any time during the period from December 5, 2014 through February 15, 2020.**

*A court authorized this Notice. This is not a solicitation.  
 This is not a lawsuit against you and you are not being sued.  
 However, your legal rights may be affected by a class action settlement.*

Your rights and each option, and related deadlines, are explained in this Notice.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
<b>YOU DO NOT NEED TO DO ANYTHING TO RECEIVE A SETTLEMENT PAYMENT</b>	The estimated amount of your Individual Settlement Payment is shown in Paragraph 8 of this Notice. Please keep the Settlement Administrator informed of your current mailing address. Once the Court grants final approval of the Settlement, the Settlement Administrator will mail your check to the last known address on file for you.
<b>CHANGE CONTACT INFORMATION</b>	YOU MUST update your contact information with the Settlement Administrator to ensure that you receive your Individual Settlement Payment.
<b>EXCLUDE YOURSELF</b> Deadline: [Response Deadline]	You can exclude yourself from the Settlement if you do not wish to participate in the Settlement. This is the only option that allows you to pursue your own lawsuit against California Fine Wine about the legal claims in this case. If you exclude yourself, you will not receive an Individual Settlement Payment.
<b>DEADLINE TO OBJECT:</b> [Response Deadline]	If you think the Settlement is not fair, you can submit a written objection (“Notice of Objection”) to the Settlement Administrator, and it will be considered by the Court. You may also ask to speak in Court about why you think the Settlement is not fair at the time of the Final Approval Hearing. If the Settlement is approved, you will be bound by the terms of the Settlement and releases described in this Notice.
<b>DO NOTHING</b>	If you do nothing (that is, if you do not submit a timely request for exclusion), you will be mailed an Individual Settlement Payment at the address listed above, and you will be bound by the terms of the Settlement and releases described in this Notice.

**WHAT THIS NOTICE CONTAINS**

**BASIC INFORMATION**

- 1. Why did I get this notice? .....Page 3
- 2. What is this Lawsuit about? .....Page 3
- 3. Why is this a class action? .....Page 3
- 4. Why is there a Settlement? .....Page 3
- 5. Who are the Parties in this Lawsuit.....Page 3
- 6. Do I have a lawyer in this case?.....Page 3

**THE TERMS OF THE SETTLEMENT**

- 7. What is the settlement amount and how will the Individual Settlement Payments be calculated? .....Page 4
- 8. How much will my Individual Settlement Payment be?.....Page 5
- 9. What do I do if my dates of employment are wrong? .....Page 5

**HOW TO GET A PAYMENT**

- 10. How can I get my Individual Settlement Payment?.....Page 6
- 11. What am I giving up to get an Individual Settlement Payment?.....Page 6

**EXCLUDING YOURSELF FROM THE SETTLEMENT**

- 12. How do I exclude myself from the Settlement?.....Page 6
- 13. If I don't exclude myself, can I sue California Fine Wine for the same thing later? .....Page 7

**OBJECTING TO THE SETTLEMENT**

- 14. How do I tell the Court that I don't like the Settlement? .....Page 7
- 15. What is the difference between objecting and being excluded? .....Page 7

**THE COURT'S FINAL APPROVAL HEARING**

- 16. When and where will the Court decide whether to approve the Settlement? .....Page 7
- 17. Do I have to come to the hearing? .....Page 7

**GETTING MORE INFORMATION**

- 18. Who may I contact if I have questions about the Settlement? .....Page 8

**ADDITIONAL IMPORTANT INFORMATION**.....Page 8

## BASIC INFORMATION

### 1. **Why did I get this notice?**

The Court has preliminarily approved a settlement of the lawsuit *Carla Blackshear v. California Fine Wine & Spirits LLC*, Case No. 34-2018-00245842 (“*Blackshear v. California Fine Wine*”), which is pending in the Sacramento Superior Court State of California (“**Lawsuit**”). The Settlement is on behalf of a proposed Class, defined as all current and former non-exempt employees of California Fine Wine (the “**Company**” or “**Defendant**”) who worked in the State of California at any time during the period from December 5, 2014 through February 15, 2020 (the “**Class Period**”).

You received this notice because the Company’s records show that you worked for the Company as a non-exempt employee in California at some time during the Class period, and therefore, you may be a member of the Class (“**Class Member**”). This notice explains the Lawsuit, the settlement, your legal rights, the benefits available for you, your eligibility for benefits, and how you obtain them.

### 2. **What is this Lawsuit about?**

Carla Blackshear (“**Plaintiff**”) sued on behalf of herself and other non-exempt employee in California. Plaintiff alleges that the Company owes her and other non-exempt employees additional amounts for failing to pay overtime wages; failing to provide compliant meal and rest breaks and related premium payments; failing to provide compliant wage statements; failing to pay final wages; unfair business practices; and other related penalties. Plaintiff seeks damages for lost wages, interest, and penalties, as well as attorneys’ fees and expenses. Defendant strongly denies Plaintiff’ allegations and admit no wrongdoing. To avoid the costs of litigation, however, the Parties have agreed to settle this matter.

### 3. **Why is this a class action?**

In a class action, one court resolves the issues for everyone in the class, except for those people who decide to exclude themselves from the class. In this case, the Plaintiff sued on behalf of herself and other non-exempt employees in California, and the group of non-exempt employees with similar claims is called a “Class.” Each person included in the class definition is a “Class Member.”

### 4. **Why is there a Settlement?**

The Court has not decided in favor of either party, not the Plaintiff or the Defendant. There was no trial. Instead, both sides agreed to a no-fault settlement of the Lawsuit (“Settlement”). That way, they avoid the cost of a trial and the Class Members can get compensation from the Settlement. Plaintiff and Class Counsel think that the Settlement is best for the Class.

### 5. **Who are the Parties in this Lawsuit?**

California Fine Wine employed Plaintiff Carla Blackshear as a non-exempt employee in California. California Fine Wine is the named Defendant.

### 6. **Do I have a lawyer in this case?**

The Court has appointed Class Counsel listed below to represent your interests in this case.

#### **Class Counsel**

Norman B. Blumenthal, SBN 068687  
Kyle R. Nordrehaug, SBN 205975  
Aparajit Bhowmik, SBN 248066  
BLUMENTHAL NORDREHAUG BHOWMIK  
DE BLOUW LLP  
2255 Calle Clara  
La Jolla, CA 92037  
Tel : (858) 551-1223  
Email : [Kyle@bamlawca.com](mailto:Kyle@bamlawca.com)

#### **Defendant is represented by:**

Michael J. Nader  
Ogletree, Deakins, Nash,  
Smoak & Stewart, P.C.  
500 Capital Mall, Suite 2500  
Sacramento, CA 95814



If you have questions regarding this Settlement, you should contact Class Counsel, or the Settlement Administrator at 1-800-[telephone]. You may also view documents relating to the Settlement (including, but not limited to, the complaint, all papers filed in connection with the motion for preliminary approval of the Settlement, the order granting preliminary approval of the Settlement, and other documents) by visiting the following website:

[www.CAWineClassActionSettlement.com](http://www.CAWineClassActionSettlement.com).

## THE TERMS OF THE SETTLEMENT

### 7. What is the settlement amount and how will the Individual Settlement Payment be calculated?

Under the proposed Settlement, California Fine Wine will pay \$2,100,000.00 (referred to as the “**Maximum Settlement Amount**” or “**MSA**”) to fully and finally resolve all claims in the Lawsuit.

The “**Net Settlement Amount**” or “**NSA**” means the Maximum Settlement Amount, less all of the following amounts, which are subject to approval by the Court:

- A. Attorneys’ Fees and Costs: Class Counsel will apply to the Court for attorneys’ fees of up to \$700,000.00, and reimbursement of up to \$15,000 for actual litigation costs and expenses.
- B. Class Representative Service Award: Class Counsel will apply to the Court for a Service Award of up to \$10,000 to Plaintiff for her efforts in prosecuting this case. Plaintiff’s Service Award will be in addition to any Individual Settlement Payment she receives as a Settlement Class Member.
- C. PAGA Payment: Class Counsel will apply to the Court for an allocation of \$28,000 shall be allocated from the MSA for the release of claims for civil penalties under the PAGA claims in the Lawsuit. The Settlement Administrator shall pay \$21,000 (75% of \$28,000) to the California Labor and Workforce Development Agency) no later than twenty-five (25) calendar days after the Effective Date. The other 25% (\$7,000) will be retained in the NSA and distributed to the Class Members.
- D. Settlement Administration Costs: The Settlement Administration Costs refer to the fees and expenses reasonably incurred by the Settlement Administrator to, among other things, distribute notice packets to Class Members, process requests for objections or exclusions, and distribute payments under the Settlement. Settlement Administration Costs are estimated to be \$30,000.00.

If the Court grants final approval of the Settlement, the NSA will be paid out entirely, *automatically*, to all Class Members who do not request exclusion from the Settlement (“**Settlement Class Members**”). Any portion of the NSA that would have been paid to individuals who timely request exclusion from the Settlement will be paid to the Settlement Class Members who participate in the Settlement. In other words, the entire NSA will be paid to Settlement Class Members, and no portion of the NSA will be returned to California Fine Wine under any circumstances.

Each Settlement Class Member’s share of the NSA will be based on the number of Qualified Workweeks that he or she worked for California Fine Wine in California during the Class Period, using the following procedure:

- The Settlement Administrator will calculate the number of Qualified Workweeks that each Class Member worked during the Class Period.
- The Settlement Administrator will determine the total, aggregate number of Qualified Workweeks worked by all Class Members.
- Each Class Member’s Qualified Workweeks will be divided by the total Qualified Workweeks for all Class Members, resulting in the “Payment Ratio” for each Class Member.
- Each Class Member’s Payment Ratio will then be multiplied by the Net Settlement Amount to calculate the gross amount of each Individual Settlement Payment.

Ten percent (10%) of each Individual Settlement Payment will be allocated to the settlement of claims for unpaid wages, and will have withholdings and taxes deducted at each Settlement Class Members' last-reported withholding status; ninety percent (90%) will be allocated to statutory and civil damages and penalties, and will be reported on an IRS Form-1099 by the Settlement Administrator.

**8. How much will my Individual Settlement Payment be?**

California Fine Wine's records show that you were employed by the Company as a Class Member from <<Start Date>> to <<End Date>> during the Class Period, and worked <<Qualified Workweeks>> Qualified Workweeks during the Class Period. Based on this information, your estimated gross Individual Settlement Payment is approximately \$<<Estimated Individual Settlement Payment>>.

This amount is only an estimate. The actual Individual Settlement Payment you receive may be slightly more or less than the estimated amount shown.

If the Court approves the Settlement and there are no objections or appeals, Individual Settlement Payments will be mailed approximately three months after this hearing. If there are objections or appeals, resolving them can take time, perhaps more than a year. Your patience is appreciated.

**9. What do I do if my dates of employment are wrong?**

Your dates of employment, and the number of Qualified Workweeks as shown above, were determined based upon the Company's records. If you believe the dates of employment and/or the number of Qualified Workweeks attributed to you are not right, you may send a letter to the Settlement Administrator stating what you believe the right dates are. In order to be considered, you must mail your letter to the Settlement Administrator at the address listed below, in Paragraph 12 of this Notice, postmarked on or before [60 days after initial mailing], 2020. Your dispute must contain: (1) your full name and address; (2) the case name and number (*Carla Blackshear v. California Fine Wine & Spirits LLC*, Case No. 34-2018-00245842); (3) a clear statement indicating you wish to dispute the dates of employment and/or number of Qualified Workweeks attributed to you; and (4) the dates of employment and/or number of Qualified Workweeks you contend are correct, together with any supporting documents or information. The Settlement Administrator will resolve any dispute regarding your dates of employment and/or number of Qualified Workweeks based on the Company's records and any information you provide.

**HOW TO GET A PAYMENT**

**10. How do I get my Individual Settlement Payment?**

You do not need to do anything -- you will automatically receive your Individual Settlement Payment after the Court approves the Settlement at a Final Approval Hearing. You must notify the Settlement Administrator of any change or correction in your contact information, or if the information shown in Paragraph 8 regarding your employment with Defendant is not correct. **It is your responsibility to keep the Settlement Administrator informed of any change in your address. If final approval of the Settlement is granted, your Individual Settlement Payment installments will be mailed to the last known address on file with the Settlement Administrator.**

Settlement Class Members receiving an Individual Settlement Payment will be responsible for correctly characterizing this compensation for tax purposes and paying taxes due, if any.

**11. What am I giving up to get an Individual Settlement Payment?**

Unless you exclude yourself, you remain in the Class, which means you will not be able to sue, continue to sue, or be part of any other lawsuit against Defendant for the same legal issues in this Lawsuit. Specifically, you will be giving up or "releasing" the claims described below:

**Release of Claims:** If the Court approves the Settlement, each Class Member who has not excluded themselves from the Settlement will be bound by the Settlement, and thereby release Defendant of all causes of action that were

alleged or reasonably could have been alleged in the Lawsuit based on the facts, legal theories, or causes of action contained therein, including all of the following claims for relief: (i) any and all claims for alleged unpaid wages including, but not limited to, claims for minimum wage, overtime, double-time, seventh day pay, the failure to pay for all hours worked, and the failure to pay for all hours worked at correct rates; (ii) any and all claims for meal period violations including, but not limited to, claims for late, short, interrupted and/or missed meal periods and/or the failure to pay premium wages therefor; (iii) any and all claims for rest break violations including but not limited to, claims for late, short, interrupted and/or missed rest breaks and/or the failure to pay premium wages therefor; (iv) any and all claims for improper or inaccurate itemized wage statements including, but not limited to, claims for injuries suffered therefrom; (v) any and all claims for statutory penalties premised on the facts, claims, or legal theories described above or in the Lawsuit, or that reasonably could have been raised in the Lawsuit based on the facts, legal theories, and causes of action alleged in the Lawsuit, including waiting time penalties under Labor Code Section 203 and/or wage statement penalties under Labor Code Section 226(e); (vi) any and all civil penalties under the Labor Code Private Attorneys General Act of 2004, Labor Code Section 2698 et seq. (“PAGA”) premised on the facts, claims, or legal theories described above or in the Lawsuit; (vii) any and all claims under the Business & Professions Code (including Section 17200 et seq.) premised on the facts, claims, or legal theories described above or in the Lawsuit, or that reasonably could have been raised in the Lawsuit based on the facts, legal theories, and causes of action alleged in the Lawsuit, and other equitable relief, liquidated damages, punitive damages, or penalties arising from the foregoing alleged claims; and any other benefit claimed on account of the allegations asserted in the Lawsuit (collectively, the “Released Claims”). The Released Claims shall expressly exclude claims for wrongful termination, unemployment insurance, disability, social security, workers’ compensation, and claims outside of the Class Period. The period of the Released Claims shall extend to the limits of the Class Period.

Settlement Class Members may hereafter discover facts or legal arguments in addition to or different from those they now know or currently believe to be true with respect to the claims, causes of action and legal theories of recovery in this case which are the subject matter of the Released Claims. Regardless, the discovery of new facts or legal arguments shall in no way limit the scope or definition of the Released Claims, and by virtue of this Settlement, the Settlement Class Members shall be deemed to have, and by operation of the final judgment approved by the Court, shall have, fully, finally, and forever settled and released all of the Released Claims.

## EXCLUDING YOURSELF FROM THE SETTLEMENT

### 12. How do I exclude myself from the Settlement?

If you want to retain the right to pursue claims related to this case against the Defendant and/or you do NOT want a payment from this Settlement, then you must exclude yourself. Excluding yourself is also referred to as “opting-out.” If you exclude yourself, you will not receive money from this settlement.

The request for exclusion must contain: (1) your name, address, telephone number, and the last four digits of your Social Security Number or your full Employee ID Number; (2) your signature or the signature of your legal representative; (3) the case name and number (*Carla Blackshear v. California Fine Wine & Spirits LLC*, Case No. 34-2018-00245842); and (4) a clear statement that you wish to exclude yourself from the Settlement.

To be timely, any request for exclusion must be mailed or faxed to the Settlement Administrator, postmarked or fax-stamped on or before **[Response Deadline]**, to the following address or fax number:

California Fine Wine Class Action Settlement

**[Settlement Administrator]**

**[Address]**

**[Fax Number]**

Requests for exclusion which are postmarked or fax-stamped after the Response Deadline may not be accepted.

**13. If I don't exclude myself, can I sue California Fine Wine for the same thing later?**

No. Unless you exclude yourself, you give up any right to sue California Fine Wine for the claims that this Settlement covers, and for the Class Period. *If you have a pending lawsuit, speak to your lawyer in that case immediately.* You must exclude yourself from this Class to continue your own lawsuit.

**OBJECTING TO THE SETTLEMENT**

**14. How do I tell the Court that I don't like the Settlement?**

If you do not think the Settlement is fair, you can object to the Settlement and tell the Court that you do not agree with the Settlement or some part of it. The Court will consider your views when deciding whether to grant final approval of the Settlement. This is the process to tell the Court if you think the Settlement as a whole is unfair. If you only think your Settlement Payment was miscalculated, use the process in Paragraph 9 of this Notice.

To object to the Settlement, you may file a written objection with the Court or you may attend and speak at the Final Approval Hearing. The Court will consider all objections in deciding whether to approve the Settlement. All written objections should (a) reference the case name and number (*Carla Blackshear v. California Fine Wine & Spirits LLC*, Case No. 34-2018-00245842); (b) explain the basis for the objection, (c) include the last four digits of your Social Security number and/or Employee ID number (your Social Security number will be redacted before an objection becomes part of the public record); and (d) be signed by you. Written objections must be mailed to the Settlement Administrator no later than [Response Deadline] to the following address:

California Fine Wine Class Action Settlement  
[Settlement Administrator]  
[Address]

Written objections which are postmarked after the Response Deadline may not be accepted.

**15. What is the difference between objecting and being excluded?**

Objecting is telling the Court that you do not like something about the Settlement. You may only object if you remain a Settlement Class Member. Excluding yourself is telling the Court that you do not want to be a Settlement Class Member. If you exclude yourself, you cannot object.

**THE COURT'S FINAL APPROVAL HEARING**

**16. When and where will the Court decide whether to approve the Settlement?**

The Court will hold a Final Approval Hearing before Judge Richard K. Sueyoshi, Dept 28, Sacramento Superior Court, 720 9th St, Sacramento, Sacramento, CA 95814 on [Date], at [Time]. At this hearing, the Court will determine whether the Settlement should be finally approved as fair, reasonable, and adequate. The Court will also be asked to approve Class Counsel's request for attorneys' fees and costs, the Class Representative Service Award, the allocation for PAGA penalties, and the Settlement Administration Costs. The Court may reschedule the Final Approval Hearing without further notice to Class Members

**17. Do I have to come to the hearing?**

You are not required to attend the Final Approval Hearing, but you or your lawyer may attend if you choose. If you are a participating class member and you wish to speak or have your lawyer speak for you, you may do so. Please visit <https://services.saccourt.ca.gov/PublicCaseAccess/Civil/SearchByCaseNumber> and put in the case number to see whether the Final Approval Hearing will be held on [scheduled date] or has been rescheduled to a new hearing date.

**GETTING MORE INFORMATION**

**18. Who may I contact if I have questions about the Settlement?**

If you have any questions about the Settlement, you may contact Class Counsel at the address or telephone number listed in Paragraph 6 of this Notice. You may also contact the Settlement Administrator by calling toll free 1-[telephone number], or by writing to the Settlement Administrator at the address shown in Paragraph 12, above.

If you would like to review relevant documents, including the settlement agreement and other Court-filed documents, please visit the website [www.CAWineClassActionSettlement.com](http://www.CAWineClassActionSettlement.com). Documents may also be reviewed during regular office hours, 9:00 a.m. to 4:00 p.m., Monday through Friday, at the Office of the Clerk, Room 4-200, at the address shown in Paragraph 16.

**PLEASE DO NOT CONTACT THE CLERK OF THE COURT, THE JUDGE, OR THE COMPANY'S MANAGERS, SUPERVISORS, OR THEIR ATTORNEYS FOR INFORMATION.** (Note: You may contact the attorneys identified as "Class Counsel" in Paragraph 6 of this Notice).

**ADDITIONAL IMPORTANT INFORMATION**

- 19. California Fine Wine supports the Settlement and will not retaliate in any manner whatsoever** against any Class Member, whether they choose to stay in the Class as a Settlement Class Member and receive an Individual Settlement Payment, or request to be excluded from the Settlement, or object to the Settlement.
- 20. It is your responsibility to ensure that the Settlement Administrator has your current mailing address and telephone number on file**, as this will be the address to which your Individual Settlement Payment installments will be sent.
- 21. Individual Settlement Payment checks must be cashed soon after receipt.** Individual Settlement Payment checks that remain uncashed 180 calendar days after the date of issuance will be voided, and the funds represented by any such uncashed checks shall be tendered to the State of California Controller's Office. If your check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement.

**EXHIBIT #2**

**CHANGE OF ADDRESS FORM**

Address

*If the contact information that is listed here for you needs to be updated or corrected, please notify the settlement administrator immediately.*

I wish to change my name and/or mailing address and/or other contact information to the following:

Name: \_\_\_\_\_

Former Name (if applicable): \_\_\_\_\_

Street and Apt. No., if any: \_\_\_\_\_

City, State and Zip Code: \_\_\_\_\_

Telephone(s): (Home): \_\_\_\_\_; (Cell): \_\_\_\_\_

Email: \_\_\_\_\_

I understand all future correspondence in this Lawsuit, including important notices or Individual Settlement Payments, will be sent to the address listed above and not to the address previously used. I hereby request and consent to the use of the address listed above for these purposes.

Submitted by:

DATED: \_\_\_\_\_, 2020

Print Name: \_\_\_\_\_

Signature: \_\_\_\_\_

**PLEASE RETURN THIS FORM IN THE ENVELOPE PROVIDED  
OR VIA UNITED STATES FIRST-CLASS MAIL TO:**

*Blackshear v. California Fine Wine Settlement Administrator*  
c/o ILYM Group, Inc.  
P.O. Box \_\_\_\_\_

Tustin, CA 92781

OR BY FAX TO THE TOLL-FREE NUMBER: ( ) -

42582046.1



**EXHIBIT #3**

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**EXHIBIT 3**

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SACRAMENTO

CARLA BLACKSHEAR, an individual, on behalf of herself and on behalf of all persons similarly situated,

Plaintiff,

vs.

CALIFORNIA FINE WINE & SPIRITS LLC, a Limited Liability Company; and DOES 1 through 100, inclusive,

Defendants.

CASE NO.: **34-2018-00245842**

**[PROPOSED] PRELIMINARY APPROVAL ORDER**

Hearing Date: \_\_\_\_\_  
Hearing Time: \_\_\_\_\_

Judge: Hon. Richard K. Sueyoshi  
Dept. 28

Complaint Filed: December 5, 2018  
Trial date: None Set

This matter, having come before the Honorable Richard K. Sueyoshi of the Superior Court of the State of California, in and for the County Sacramento, on \_\_\_\_\_[DATE], for the motion by Plaintiff Carla Blackshear (“Plaintiff”) for preliminary approval of the class settlement with Defendant California Fine Wine & Spirits LLC (“Defendant”). The Court, having considered

PRELIMINARY APPROVAL ORDER

1 the briefs, argument of counsel and all matters presented to the Court and good cause appearing,  
2 hereby GRANTS Plaintiff's Motion for Preliminary Approval of Class Action Settlement.

3  
4 **IT IS HEREBY ORDERED:**

5 1. The Court preliminarily approves the Joint Stipulation of Class Lawsuit and PAGA  
6 Settlement Agreement ("Agreement") attached as Exhibit \_\_\_ to the Declaration of Kyle  
7 Nordrehaug in Support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement.  
8 This is based on the Court's determination that the Settlement set forth in the Agreement appears  
9 to be within the range of reasonableness of a settlement which could ultimately be given final  
10 approval, pursuant to the provisions of Section 382 of the California Code of Civil Procedure and  
11 California Rules of Court, rule 3.769.

12 2. This Order incorporates by reference the definitions in the Agreement, and all  
13 terms defined therein shall have the same meaning in this Order as set forth in the Agreement.

14 3. The Maximum Settlement Amount that Defendant shall pay is Two Million One  
15 Hundred Thousand Dollars (\$2,100,000). It appears to the Court on a preliminary basis that the  
16 settlement amount and terms are fair, adequate and reasonable as to all potential Class Members  
17 when balanced against the probable outcome of further litigation and the significant risks relating  
18 to certification, liability and damages issues. It further appears that investigation, research, and  
19 informal discovery have been conducted such that counsel for the Parties are able to reasonably  
20 evaluate their respective positions. It further appears to the Court that settlement at this time will  
21 avoid substantial additional costs by all Parties, as well as avoid the delay and risks that would be  
22 presented by the further prosecution of the Action. It further appears that the Settlement has been  
23 reached as the result of serious and non-collusive, arms-length negotiations.

24 4. The Agreement specifies for an attorneys' fees award not to exceed seven hundred  
25 thousand dollars (\$700,000.00), which is one-third of the Maximum Settlement Amount, an award  
26 of litigation expenses incurred not to exceed \$15,000, and a proposed Class Representative  
27 Service Award to the Plaintiff in an amount not to exceed \$10,000. The Court will not approve

1 the amount of attorneys' fees and costs, nor the amount of any service award, until the Final  
2 Approval Hearing. Plaintiff will be required to present evidence supporting these requests,  
3 including lodestar, prior to final approval.

4         5.         As a part of preliminary approval, the Court finds, for settlement purposes only,  
5 that the Class meets the requirements for certification under Section 382 of the California Code of  
6 Civil Procedure, and the Court accepts and incorporates the Settlement Agreement and hereby  
7 conditionally certifies the Class of persons, for settlement purposes only, pursuant to the  
8 Settlement Agreement's terms and conditions, as follows: "All individuals who are or previously  
9 were employed by Defendant in California, and classified as a non-exempt employee at any time  
10 during the Class Period." The Class Period is December 5, 2014 through February 15, 2020.

11         6.         The Court provisionally appoints Plaintiff as the representative of the Class. The  
12 Court provisionally appoints Norman B. Blumenthal, Kyle R. Nordrehaug, and Aparajit Bhowmik  
13 of Blumenthal Nordrehaug Bhowmik De Blouw LLP as Class Counsel for the Class.

14         7.         The Court hereby approves, as to form and content, the Notice of Class Action and  
15 PAGA Settlement ("Notice") attached to the Agreement as Exhibit A. The Court finds that the  
16 Notice appears to fully and accurately inform the Class of all material elements of the proposed  
17 Settlement, of the Class Members' right to be excluded from the Class by submitting a written opt-  
18 out request, and of each member's right and opportunity to object to the Settlement. The Court  
19 further finds that the distribution of the Notice substantially in the manner and form set forth in the  
20 Agreement and this Order meets the requirements of due process, is the best notice practicable  
21 under the circumstances, and shall constitute due and sufficient notice to all persons entitled  
22 thereto. The Court orders the mailing of the Notice by first class mail, pursuant to the terms set  
23 forth in the Agreement.

24         8.         The Court hereby appoints ILYM Group, Inc. as Settlement Administrator. No  
25 later than 14 calendar days after preliminary approval of the Settlement by the Court, Defendant  
26 shall provide to the Settlement Administrator an electronic spreadsheet with the Class Data. The  
27 Settlement Administrator will perform address updates and verifications as necessary prior to the  
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1 first mailing. Using best efforts to mail it as soon as possible, and in no event later than 14 days  
2 after receiving the Class Data, the Settlement Administrator will mail the Notice to all Class  
3 Members via first-class regular U.S. Mail.

4 9. The Court finds that the Notice of Class Action Settlement (“Class Notice”)  
5 together with the change of address form ( exhibits 1 and 2 to the Settlement Agreement, and  
6 together with a preprinted return envelope, collectively the “Notice Packet”) advises the Class of  
7 the pendency of the Class Action, of the proposed settlement terms, of the preliminary Court  
8 approval of the settlement, of the automatic payment of a proportionate share of the settlement  
9 monies if the class member does not request to be excluded, of the released claims, of the  
10 estimated amount each may expect to receive pursuant to the proposed settlement, of the right to  
11 submit objections or requests for exclusion and of the manner and timing for doing earlier of these  
12 acts.

13 10. The Court further finds that the proposed Class Notice and the proposed method of  
14 dissemination fairly and adequately advise the Class of the terms of the proposed settlement, of  
15 their rights, of the benefits available to class members, of the final approval hearing date, time and  
16 place, and the right to file documentation in support of, or in opposition to, the settlement, and to  
17 appear in connection with said hearing. The Court finds that the Class Notice clearly comports  
18 with all constitutional requirements including those of due process and, when completed, shall  
19 constitute sufficient notice to the class members. These notice procedures and deadlines set forth  
20 in the Class Notice and the Agreement are therefore approved as the order of this Court.

21 11. A final approval hearing shall be held before this Court on \_\_\_\_\_  
22 \_\_\_\_\_ at \_\_\_\_\_ in Department 28 of the Sacramento County Superior Court to  
23 determine all necessary matters concerning the Settlement, including: whether the proposed  
24 settlement of the Action on the terms and conditions provided for in the Agreement is fair,  
25 adequate, and reasonable and should be finally approved by the Court; whether the Final Approval  
26 Order and Judgment should be entered herein; whether the plan of allocation contained in the  
27 Agreement should be approved as fair, adequate and reasonable to the Class Members; and to  
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1 finally approve attorneys' fees and costs, service awards, and the fees and expenses of the  
2 Settlement Administrator. All papers in support of the motion for final approval and the motion  
3 for attorneys' fees, costs and service awards shall be filed with the Court and served on all counsel  
4 no later than sixteen (16) court days before the hearing.

5 12. Neither the Settlement nor any exhibit, document, or instrument delivered  
6 thereunder shall be construed as a concession or admission by Defendant in any way that the  
7 claims asserted have any merit or that this Action was properly brought as a class or representative  
8 action, and shall not be used as evidence of, or used against Defendant as, an admission or  
9 indication in any way, including with respect to any claim of any liability, wrongdoing, fault or  
10 omission by Defendant or with respect to the truth of any allegation asserted by any person.  
11 Whether or not the Settlement is finally approved, neither the Settlement, nor any exhibit,  
12 document, statement, proceeding or conduct related to the Settlement, nor any reports or accounts  
13 thereof, shall in any event be construed as, offered or admitted in evidence as, received as or  
14 deemed to be evidence for any purpose adverse to the Defendant, including, but not limited to,  
15 evidence of a presumption, concession, indication or admission by Defendant of any liability,  
16 fault, wrongdoing, omission, concession or damage, or the propriety of any particular group of  
17 individuals being certified as a class for purposes of pursuing any claims against Defendant except  
18 for purposes of effectuating this Settlement if Final Approval is granted.

19 13. In the event the Settlement does not become effective in accordance with the terms  
20 of the Agreement, or the Settlement is not finally approved, or is terminated, canceled or fails to  
21 become effective for any reason, this Order, with the exception of paragraph 12, the provisions of  
22 which be deemed severed and survive, shall be rendered null and void and shall be vacated, and  
23 the Parties shall revert to their respective positions as of before entering into the Agreement, and  
24 expressly reserve their respective rights regarding the prosecution and defense of this Action,  
25 including all available defenses and affirmative defenses, and arguments that any claim in the  
26 Action could not be certified as a class action and/or managed as a representative action. In such  
27 an event, the Court's orders regarding the Settlement, including this Order (excepting paragraph  
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1 13), shall not be used or referred to in litigation for any purpose. Nothing in this paragraph is  
2 intended to alter the terms of the Agreement with respect to the effect of the Agreement if it is not  
3 approved.

4 14. The Court reserves the right to adjourn or continue the date of the final approval  
5 hearing and all dates provided for in the Agreement without further notice to Class Members, and  
6 retains jurisdiction to consider all further applications arising out of or connected with the  
7 proposed Settlement.

8 **IT IS SO ORDERED.**

9 Dated: \_\_\_\_\_

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HON. RICHARD K. SUEVOSHI  
JUDGE, SUPERIOR COURT OF CALIFORNIA

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